IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN INSOLVENCY

INSOLVENCY PETITION NO.89 OF 2005

Re : Maldevbhai Kanabhai Bani & Ors. ...Debtors.
Ex-parte:
The Bharat Co-operative Bank (Mumbai) Ltd. ...Petg. Creditor.

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Mr. G. R. Mehta for the Petitioning Creditor.
Mr.Ramesh C. Jain for Debtor Nos.2 to 4.

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CORAM : DR.D.Y.CHANDRACHUD, J.

August 19, 2006.

P.C.

The Insolvency Petition is based on an order passed by the Assistant Registrar, Co-operative Societies, under Section 101 of the Maharashtra Co-operative Societies' Act, 1960. The amount due is in excess of Rs. 1.53 crores together with further interest on the principal of Rs. 1.17 crores at the rate of 18% per annum from 1st September 2004. An insolvency notice was taken out on 12th October 2004 which was duly served on 16th March 2005. The Debtors have failed to comply with the requisition of notice and/or take out any proceedings to set aside the Insolvency Notice. The act of insolvency was complete on 21st April 2005. The petition has been served on the First Debtor in the month of August 2005.

Debtors 2 to 5 are served by substituted service on 5th December 2005. Counsel appearing on behalf of the Debtors undertakes to file his Vakalatnama within a period of two days from today. No reply has been filed though more than one year has elapsed. In any event there is prima facie no defence. In these circumstances, the order of adjudication will have to be passed. However, Counsel appearing on behalf of the Debtors states that one last opportunity may be granted to the Debtors to move the Bank for settlement of dues. The petition is made absolute in terms of prayer clauses (a) and (b). However, in order to enable the Debtors to arrive at a settlement with the Petitioning Creditor, the order of adjudication shall stand stayed for a period of two weeks. In the event that a settlement is arrived at within that period, parties are at liberty to move the Court. Unless the order of adjudication is modified, the order shall take effect on the expiry of the two weeks from today.

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